

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT **11-0708**
CIVIL ACTION NO.

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)
)
COMMONWEALTH OF MASSACHUSETTS,)
MASSACHUSETTS COMMISSION AGAINST)
DISCRIMINATION,)
)

Plaintiffs,)
)

v.)
)

PAIGE HOSPITALITY, INC. D/B/A CURE)
LOUNGE,)
)

Defendant.)
)
-----X

RECEIVED

FEB 24 2011

SUPERIOR COURT - CIVIL
MICHAEL JOSEPH DONOVAN
CLERK / MAGISTRATE

COMPLAINT

The Commonwealth of Massachusetts, by and through its Attorney General, Martha Coakley, and the Massachusetts Commission Against Discrimination bring this action for injunctive relief and damages pursuant to G.L. c. 272, §§ 92A, 98 and G.L. c. 93A, § 4 against Paige Hospitality, Inc., d/b/a Cure Lounge, a downtown Boston nightclub that unlawfully denied use and enjoyment of a place of public accommodation to black guests on the basis of their race.

JURISDICTION AND VENUE

1. The Attorney General is authorized to bring this action pursuant to G.L. c. 93A, § 4, and G.L. c. 12, § 10. This Court has jurisdiction over the subject matter of this action pursuant to G.L. c. 93A, § 4, G.L. c. 12, § 10, G.L. c. 214, § 1, and G.L. c. 233A, § 3.

2. Venue is proper in Suffolk County pursuant to G.L. c. 223, § 5 and G.L. c. 93A, §

4.

PARTIES

3. Plaintiff Commonwealth of Massachusetts, represented by the Attorney General, brings this action in the public interest.

4. Plaintiff Massachusetts Commission Against Discrimination is the state's chief civil rights agency.

5. Defendant Paige Hospitality, Inc. d/b/a Cure Lounge, is a Massachusetts corporation. Cure Lounge is a nightclub located at 246 Tremont Street, Boston, Massachusetts.

FACTS

6. Cure Lounge is a new nightclub that received its occupancy permit from the City of Boston in October 2010. It is licensed to accommodate approximately 382 guests and staff members. Shortly thereafter, it began to schedule functions for November and December, in anticipation of a general public opening in January 2011.

7. In or around September 2010, Kwame Owusu-Kesse, Michael Beal, and Brandon Terry (collectively, the "Organizers") began to plan a social event for colleagues, friends, and fellow Harvard University and Yale University graduate students to take place during the annual Harvard-Yale football game weekend in Boston.

8. All of the Organizers are graduates of Harvard College. Owusu-Kesse is currently enrolled at Harvard Business School and at the Kennedy School of Government. Beal is currently enrolled at Harvard Business School. Terry is a Ph.D. candidate in Political Science and African-American Studies at Yale University. All of the Organizers are black.

9. Working with Adam Chepenik of Rainwater Ventures, the Organizers identified Cure Lounge as a potential venue that could accommodate between 300 and 400 guests for the evening of November 20, 2010.

10. Working on behalf of the Organizers, Chepenik made arrangements with Paige Hospitality to book Cure Lounge for the evening of November 20, 2010. On November 10, 2010, Chepenik sent an email to Zeid Nabulsi, an employee of Paige Hospitality, stating that approximately 400 people were expected to attend the event. In that email, Chepenik stated that the event guests were "Triumph Entertainment & Harvard Graduate Schools."

11. Triumph, LLC is an organization founded by Owusu-Kesse and Beal. Its mission includes facilitating the personal and professional development of young urban professionals through social, cultural, and philanthropic endeavors.

12. The Organizers promoted their event through email communications. These emails were sent to friends, colleagues, and persons affiliated with Harvard University and Yale University graduate programs.

13. The Organizers utilized the eventbrite.com website to sell tickets to the party. Approximately 400 tickets were sold for the November 20, 2010 event.

14. On November 19, 2010, Cure Lounge hosted an event for students affiliated with Harvard Business School, the Harvard Kennedy School of Government, and their guests. The majority of the guests at this event were white. The Cure Lounge security staff requested that guests produce Harvard identification cards at the club's entrance, but those guests who did not have Harvard identification cards were allowed to enter if the event host, Luke Winston, requested that they be allowed to enter.

15. On the morning of November 20, 2010, Owusu-Kesse sent an email to all ticketholders. This email explained that all tickets were nontransferable and that only persons who had purchased tickets would be permitted to enter. In that same email communication,

Owusu-Kesse suggested that the guests arrive early because the venue would be completely full and instructed the ticketholders to come “dressed to impress.”

16. On November 20, 2010, the Organizers arrived at Cure Lounge at approximately 9:00 p.m. The venue’s doors were scheduled to open to guests at 10:00 p.m.

17. Upon the Organizers’ arrival, Nabulsi asked the Organizers whether they needed cash to provide change to customers who were paying an entrance fee. Owusu-Kesse told Nabulsi that all of the tickets had already been sold, that they had a set guest list, and that they would only allow persons on the guest list to enter.

18. The Organizers hired two women, Andria Diaz and Sharon Nixon, to review the guest lists as people arrived at Cure Lounge. When Diaz and Nixon arrived at Cure Lounge on November 20, the Organizers told them that only persons whose names were on the list could attend the event and that there were no additional tickets available.

19. Cure Lounge also stationed two of its employees, bouncers Gabriel Diaz and Joseph Salas, outside of the doors to check and review government issued identification cards.

20. The doors to the event opened at 10:00 p.m.

21. Between 10:00 p.m. and approximately 10:30 p.m., all guests arriving were allowed to enter Cure Lounge if they had purchased a ticket and had a valid state or federal identification card. Guests arriving during this period were not asked to show school identification before entering the party.

22. At or around 10:30 p.m., security staff for Cure Lounge stopped allowing guests to enter, unless they had a Harvard University student identification card. Prior to that time, staff for Cure Lounge had not informed the guests or the Organizers school identification was required for entry to the event.

23. Soon thereafter, Owusu-Kesse asked Nabulsi and Sherif Hashem, Cure Lounge's head of security, about the security staff's decision to require guests to produce Harvard identification cards. Owusu-Kesse said that this requirement did not make sense because many of the guests were Harvard College alumni, were no longer enrolled at Harvard, and no longer carried Harvard identification cards with them.

24. Nabulsi called Shahrokh Reza, a manager for Paige Hospitality, on the telephone and discussed Owusu-Kesse's concerns regarding the Harvard identification card requirement. A few minutes later, Nabulsi handed his phone to Owusu-Kesse and Owusu-Kesse spoke with Reza and Chepenik, who had been conferenced onto the call, over the telephone.

25. During this telephone conversation, Reza said that he was being told by his staff that there were "gangbangers in line" and that the party was attracting "the typical Roxbury-Dorchester crowd that we [the clubs] get on Thursday and Friday nights."

26. After this telephone conversation concluded, Nabulsi told Owusu-Kesse that the decision had been made to allow in only guests with Harvard or Yale identification cards.

27. Around that same time, guests on line waiting to enter the club were split into two lines by Cure Lounge's security staff. Guests with Harvard or Yale identification cards were put in one line. Guests who did not have such identification were put on another line.

28. Between 10:30 p.m. and 11:15 p.m., some guests with school identification cards were allowed to enter Cure Lounge. During that same time period, some guests without school identification cards were also allowed to enter Cure Lounge.

29. By 11:15 p.m., there were approximately 50 guests inside of Cure Lounge. All guests inside of Cure Lounge were behaving appropriately and peacefully.

30. By 11:15 p.m., there were approximately 50 people lined up outside of Cure Lounge waiting to enter the event. All guests waiting on line to enter Cure Lounge were acting appropriately and peacefully.

31. The guests inside of Cure Lounge as well as those in line outside were predominantly black.

32. At approximately 11:15 p.m., Cure Lounge staff informed guests both inside and outside that the party was over and that they needed to leave. Cure Lounge staff members provided guests with a variety of reasons as to why the party was being ending prematurely. One reason was that the club was experiencing "technical difficulties." Another reason was that there was alleged "gang activity" in the club. Another reason was concern of overcrowding inside of the club and having a problem with the fire marshal.

33. The music was stopped, the lights were turned on, and the bartenders were instructed by Hashem and Nabulsi not to sell any more drinks.

34. As the guests were departing, the Organizers spoke with Hashem. Hashem told the Organizers that the party was stopped because: "It'll be the weed smoking brothers from the other side of Massachusetts Avenue who will want to come in if they see beautiful black women in line, and it will be a problem if we try to turn them away."

35. Cure Lounge's staff members ended the event on November 20, 2010 because the vast majority of guests were black. They assumed that because they were black that the guests were local "gangbangers" and "troublemakers."

36. All of the guests left Cure Lounge peacefully and quickly, as was requested by the staff of Cure Lounge.

STATEMENT OF CLAIMS

Count I

Discrimination in Public Accommodations (G.L. c. 272, §§ 92A, 98))

37. The Commonwealth re-alleges and incorporates Paragraphs 1 through 36.
38. Cure Lounge is a place of public accommodation as defined in G.L. c. 272, § 92A.
39. Paige Hospitality violated G.L. c. 272, §§ 92A, 98 by barring entry to and prematurely terminating the event at Cure Lounge on November 20, 2010 because the vast majority of the guests were black.

Count II

Violation of Consumer Protection Act (G.L. c. 93A, § 2)

40. The Commonwealth re-alleges and incorporates Paragraphs 1 through 39.
41. Cure Lounge is a “person” as it is defined in G.L. c. 93A, § 1.
42. Cure Lounge is engaged in the trade or commerce of being a night club.
43. Cure Lounge violated G.L. c. 93A, § 2 by discriminating against black patrons by denying them access to an event on the basis of their race.

PRAYER FOR RELIEF

WHEREFORE, the Commonwealth of Massachusetts and the Massachusetts Commission Against Discrimination request that this Court:

- (a) Find that Defendants violated G.L. c. 272, §§ 92A, 98 and G.L. c. 93A, § 2;
- (b) Enter a permanent injunction enjoining the Defendant from engaging in discriminatory acts or violating G.L. c. 272, §§ 92A, 98 and G.L. c. 93A, § 2;
- (c) Require Defendant Paige Hospitality to implement anti-discrimination and racial profiling training for all of its staff and contractors;
- (d) Award compensatory, punitive, and exemplary damages to all persons who entered or tried to enter Cure Lounge on November 20, 2010;
- (e) Award penalties up to \$5,000.00 for each unfair or deceptive act or practice as determined by this Court;
- (f) Award attorneys' fees and costs; and
- (g) Order such other relief as the Court deems just and proper.

PLAINTIFFS DEMAND A TRIAL BY JURY.

Respectfully submitted,

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Dated: February 24, 2011